BILL: **F2017-SR2**

TITLE: **Restoring Middlebury's Open Disciplinary Hearing**

SPONSOR: **Alec Fleischer, Feb Senator**

DATE: **October 8, 2017**

Whereas the option for an open hearing before the Academic Judicial Board (AJB) and Community Judicial Board (CJB) is available to a student or group of students as outlined by College Handbook: art. B.2.d. General Discipline Process, § B Hearing Procedures, cl. 17, Hearings.[i].

Whereas College Handbook: art. B.2.d. General Discipline Process, § B Hearing Procedures, cl. 17, Hearings does not outline specific procedures for an open disciplinary hearing such as whether a lottery system for admittance is permitted or if the open hearing must be available to college community members on a first come first serve basis.

Whereas College Handbook: art. B.2.d. General Discipline Process, § B Hearing Procedures, cl. 17, Hearings currently allows a student or group of students to choose an open hearing option after confidentiality is waived with "advance request of a respondent and with the consent of the complainant"[ii].

Whereas the two most recent open hearings were only open via a "lottery of community members wishing to attend this hearing" (5/15/17 school-wide email sent by Karen S. Guttentag, Associate Dean for Judicial Affairs and Student Life).

Whereas in the two most recent open hearings, only a limited number of college community members who entered where selected from the lottery outlined in the email above.

Whereas in the two most recent open hearings, additional college community members could have been selected if a large venue was utilized such as Dana Auditorium.

Whereas the two most recent open hearings were advertised through a school-wide email that did not disclose the exact charges nor the participants involved (5/15/17 school-wide email sent by Karen S. Guttentag, Associate Dean for Judicial Affairs and Student Life).

Whereas students have previously chosen a disposition without a hearing or opted for a closed hearing due to severely limited attendance allowed in an open hearing.

Whereas previous open hearings, such as that for the Dali Lama Welcoming Committee (DLWC), have allowed any college community member to enter and leave at set times throughout the hearing considering they were both non-disruptive and the capacity of the room was not reached.

Whereas previous open hearings have taken place in large capacity venues. For example, during the open hearing for the DWLC, "Students, faculty, staff and community members filled Dana Auditorium" (DLWC Given Reprimand by Judicial Board, *The Campus*) and the hearing was open to all college community members without a lottery process.

Whereas previous open hearings have allowed for a rare glimpse of non-confidential examination of Middlebury's judicial process by any college community member (e.g. A Call For True Impartiality, *The Campus*)[iii].

Therefore, be it resolved…

The Student Government Association recommends that the handbook committee implement handbook policy for an open hearing as follows:

1. As currently allowed, an open hearing should be an option for any student or students who elect for an open AJB or CJB hearing except if confidential information is pertinent to the case.
2. A school wide email should be sent several days prior to the hearing detailing the charges, who is involved, and the logistical details of the hearing such as location, date, and time.
3. Any college community members are allowed to attend an open hearing. These members should be able to enter and leave throughout the hearing at set times in a non-disruptive manner.
4. If a college community member or members are being disruptive, they will be asked to leave. If, after a warning, the community member or members do not leave, they will be subject to disciplinary action. Additionally, multiple acts of disruption will allow the AJB or CJB to elect to continue the hearing as a closed hearing except for college community members reporting for a media outlet.
5. If the hearing is expected to have a large crowd, the hearing must take place in a high capacity area such as Dana Auditorium or Wilson Hall. Admittance to the hearing should come on a first come first serve basis until room capacity is reached.
6. The student or students should be able to select whether they would also like non-community members such as the press to attend the hearing.
7. If the number of college community and possibly non-community members exceeds the capacity of the space and a high capacity location is not in use, the hearing must be immediately moved to a higher capacity on-campus location that is not in use.

Respectfully Submitted,

Alec Fleischer, Feb Senator

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[i] http://www.middlebury.edu/about/handbook/ug-college-policies/ug-policies/res-life-conduct-policies/general-disciplinary-process

[ii] Ibid

[iii] https://middleburycampus.com/2801/opinion/a-call-for-true-impartiality/

Vote Count

In favor: President Sohn, Co-Chair of Community Council Wright, Senator Pustejovsky (Proxy Cartwright), Senator Mahboob, Speaker Aaron, Senator Fleischer, Senator Pandey, Senator Vijayakumar, Senator Vargas, Senator Schurer, Senator Gosselin, Senator Salas, Senator Koontz, Senator Andrews

Opposed: Senator McCormick

Abstained: Senator Goldfield

Absent: Senator Warfel

F2017-SR2 passes 14-1-1